

## **REMARKS**

In the 6 November 2003 Office Action Summary, the Examiner rejects 13-15, 17-19, 21-23, 25-27, 39, 50-52, 54-56, 58-60 and 62-64 under 35 U.S.C. § 112, second paragraph, rejects claims 40-49, 53, 57, and 61 under 35 U.S.C. § 102, and allows claims 1-12, 16, 20, 24, 28 and 29-38. In response, the Applicants cancel claims 40-49, 53, 57, and 61, and amend claims 13, 17, 21, 25, 39, 50, 54, 58 and 62. After entry of this amendment, claims 1-39, 50-52, 54-56, 58-60, and 62-64 remain pending in the application (51 total claims: 11 Independent claims). Applicants respectfully request reconsideration of the application in accordance with the following remarks.

### **Claim Rejections 35 U.S.C. § 112**

The Examiner rejects claims 13-15, 17-19, 21-23, 25-27, 39, 50-52, 54-56, 58-60 and 62-64 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Particularly, the Examiner notes that the cited claims are indefinite in that the claims are method claims which depend upon an apparatus claim. Applicants amend claims 13, 17, 21, 25, 39, 50, 54, 58, and 62 to be independent method claims. As such, the Examiner's rejection of those claims based on section 112 is rendered moot. Moreover, claims 14-15, 16-19, 22-23, 26-27, 51-52, 53-56, 57-60 and 61-64 are dependent method claims which properly depend from independent method claims. As such, the Examiner's section 112 rejection of these dependent claims are also moot.

Additionally, it should be noted that in each the Applicants' amended claims 13, 17, 21, 25, 39, 50, 54, 58, and 62, Applicants' amend the claim to include the text corresponding to the claim number referenced in originally filed claims 13, 17, 21, 25, 39, 50, 54, 58, and 62, respectively. So for example, original claim 13 is a method claim which references the magneto-resistive effect memory element being defined by original apparatus claim 12, and original apparatus claim 12 depends on original apparatus claim 1. Thus, Applicants amend method claim 13 to include the apparatus claim elements of original apparatus claims 1 and 12, such that amended claim 13 includes those elements. Applicants made similar corresponding amendments in claims 17, 21,

25, 39, 50, 54, 58, and 62. Namely, Applicants amend claim 17 to be an independent method claim, wherein the amended claim 17 includes the claim elements corresponding to apparatus claims 1, 10, and 16 (referenced in original claim 17 as “the magneto-resistive effect memory element being defined by claim 16”); Applicants amend claim 21 to be an independent method claim, wherein the amended claim 21 includes the claim elements corresponding to apparatus claims 1, 10, and 20 (referenced in original claim 21 as “the magneto-resistive effect memory element being defined by claim 20”); Applicants amend claim 25 to be an independent method claim, wherein the amended claim 25 includes the claim elements corresponding to apparatus claims 1, and 24 (referenced in original claim 25 as “the magneto-resistive effect memory element being defined by claim 24”); Applicants amend claim 39 to be an independent method claim, wherein the amended claim 39 includes the claim elements corresponding to apparatus claim 29 (referenced in original claim 39 as “a plurality of magneto-resistive effect memory elements according to claim 29”); Applicants amend claim 50 to be an independent method claim, wherein the amended claim 50 includes the claim elements corresponding to apparatus claims 40 and 49 (referenced in original claim 50 as “the magneto-resistive effect memory element being defined by claim 49”); Applicants amend claim 54 to be an independent method claim, wherein the amended claim 54 includes the claim elements corresponding to apparatus claims 40, 47, and 53 (referenced in original claim 54 as “the magneto-resistive effect memory element being defined by claim 53”); Applicants amend claim 58 to be an independent method claim, wherein the amended claim 58 includes the claim elements corresponding to apparatus claims 40, 47, and 57 (referenced in original claim 58 as “the magneto-resistive effect memory element being defined by claim 57”); and Applicants amend claim 62 to be an independent method claim, wherein the amended claim 62 includes the claim elements corresponding to apparatus claims 40 and 61 (reference in original claim 62 as “the magneto-resistive effect memory element being defined by claim 61”).

Moreover, the Examiner has determined that claim 1 is allowable. As such, those method claims which include the claim 1 apparatus elements (e.g., claims 13, 17, 21 and 25), are also allowable. As such, the Applicants’ respectfully assert that

amended claims 13, 17, 21 and 25, which incorporate the claim limitations of claim 1, are also allowable.

### **Claim Rejections 35 U.S.C. § 102(e)**

The Examiner rejects claims 40-49, 53, 57 and 61 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,219,275 issued to Nishimura. Applicants cancel claims 40-49, 53, 57 and 61 without prejudice. Thus, the Examiner's section 112 rejections of claims 40-49, 53, 57 and 61 are now rendered moot.


### **Allowed Subject Matter**

Applicants acknowledge the Examiner's allowance of claims 1-12, 16, 20, 24, 28 and 29-38 and thank the Examiner for same.

In view of the foregoing, Applicants respectfully request withdrawal of the Examiner's 35 U.S.C §§ 112, 102 rejections of Applicants' remaining claims for the reasons set forth above. The Applicants respectfully submit that the present application is in condition for allowance, and that all claims properly conform to the requirements of 35 U.S.C. §112. Reconsideration of the application and allowance of all pending claims 1-18 is respectfully requested.

The Examiner is authorized to charge any a deficiency or overpayment in the fee to our Deposit Account No. 19-2814 for the difference, **for which purpose a duplicate copy of this Response and Request is enclosed.** Should the Examiner wish to discuss the Applicants' comments, Applicants invite the Examiner to telephone the undersigned if he or she has any questions whatsoever regarding this Response or the present application in general.

Respectfully submitted,

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